

Chapter 1

BASIC

1-1 RULES AND AMENDMENTS

1-1.1 Circulation of Proposed Amendments for Comment

The state personnel director shall give written notice to all appointing authorities and recognized employee organizations of any proposed amendments to these rules at least 28 calendar days before final action by the civil service commission. If the written notice has been given at least 14 calendar days at the time action is to be taken, the commission may waive the 28-day notice requirement by the affirmative vote of a majority of a quorum if the notice of the proposed amendment provided an opportunity for comment and notification of the date and place of the meeting at which the proposed revision is first considered. The commission may further modify a proposed amendment or defer final action to a subsequent meeting without further written notice.

1-1.2 Effective Date

An amendment to these rules becomes effective upon approval by the civil service commission, unless the commission orders otherwise.

- (a) **Recirculation.** If, during consideration, the commission substantially modifies a proposed amendment as circulated, the commission may order that the rule be recirculated as approved to appointing authorities and recognized employee organizations. A person may file an objection to the rule within 14 calendar days after the date of publication. The rule becomes effective 21 calendar days after publication, unless the commission establishes a later effective date or unless the state personnel director authorizes a delay in the effective date, as provided in subsection (b).
- (b) **Delay of effective date.** If the state personnel director, after review of any objections, finds in the director's sole discretion that the objections are so substantial that they merit further consideration by the commission, the director is authorized to delay the effective date of such rule until the next meeting of the commission. The revision becomes effective immediately upon the adjournment of the first commission meeting following action by the state personnel director delaying the effective date unless the commission orders otherwise.

1-1.3 Emergency Rule Action by Commission

.In situations requiring immediate action or when a proposed amendment has been circulated for less than 14 calendar days, the civil service commission may waive the requirements of notice and approve an amendment to these rules upon unanimous vote of a quorum. The commission's determination that a situation requires immediate action is conclusive.

1-1.4 Interim Rule Action by Director and Chair

.If the state personnel director determines that the efficient and orderly administration of the classified service requires that a rule be waived or modified, the director, with the consent of the chair of the civil service commission, may temporarily waive or modify any rule. The modification or waiver is effective immediately upon written authorization by the director and is in effect only until the next meeting of the commission. The director shall place the waiver or modification on the agenda for the next meeting of the commission. If a majority of a quorum of the commission does not approve the waiver or modification before the adjournment of that meeting, the waiver or modification expires. Failure of the commission to approve the waiver or modification does not void actions taken in reliance on the interim rule action while the waiver or modification was effective. Rules 1-1.1 and 1-1.3 do not apply to commission action related to interim rule action by the state personnel director.

1-1.5 Rule-making through Adjudicative Proceedings

.In addition to the legislative process provided in this rule, the civil service commission may also amend the rules by order in an individual adjudicative proceeding. An order amending the rules becomes effective upon issuance by

the commission, unless the order provides otherwise.

[Rule 1-1 last amended effective March 18, 2001]

1-2 SEVERABILITY AND CAPTIONS

1-2.1 Severability

.If a court of competent jurisdiction finds that any rule or the application of any rule to any person or circumstances is invalid, such invalidity does not affect the remaining rules or applications of the rules that can be given lawful effect. These rules are declared to be severable.

1-2.2 Captions

The captions are not part of a rule and cannot be used to construe the rule more broadly or narrowly than the text indicates.

[Rule 1-2 last amended effective March 18, 2001]

1-3 REGULATIONS

The state personnel director is authorized to issue regulations that the director deems to be necessary or useful. A regulation issued by the state personnel director is binding on the department of civil service, unless the commission finds that the regulation violates a rule. The state personnel director shall make all regulations available to employees through their personnel offices and the internet.

[Rule 1-3 last amended effective March 18, 2001]

1-4 DELEGATION BY STATE PERSONNEL DIRECTOR

The state personnel director may delegate, in whole or in part, any power or authority granted by the constitution or the civil service commission, unless expressly prohibited by the constitution or rule.

[Rule 1-4 last amended effective March 18, 2001]

1-5 COMPLIANCE

The department of civil service shall periodically audit an appointing authority to ensure that the appointing authority is complying with civil service rules and regulations governing personnel transactions. If the state personnel director determines that an appointing authority has not complied with the rules and regulations, the state personnel director is authorized to direct the appointing authority to take necessary corrective action. If the appointing authority fails to take corrective action, the state personnel director is authorized to proceed with the recommended corrective action.

[Rule 1-5 last amended effective March 18, 2001]

1-6 MERIT, EFFICIENCY, AND FITNESS

All appointments and promotions to positions in the classified service, all measures for the control and regulation of employment in classified positions, and all separations from classified positions shall be based on merit, efficiency, and fitness, as provided in the civil service rules and regulations.

[Rule 1-6 last amended effective March 18, 2001]

1-7 EQUAL EMPLOYMENT OPPORTUNITY

The department of civil service and each appointing authority shall provide equal employment opportunity in the state classified service for all persons in accordance with the civil service rules and regulations.

[Rule 1-7 last amended effective March 18, 2001]

1-8 PROHIBITED DISCRIMINATION

1-8.1 Prohibited Discrimination

The department of civil service or an appointing authority shall not do any of the following:

- (a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.
- (b) Limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.

1-8.2 Accommodation of Disabilities

The department of civil service and appointing authorities shall accommodate a person with a disability as provided in the civil service rules and regulations.

1-8.3 Discriminatory Harassment

(a) Discriminatory harassment prohibited.

Discriminatory harassment is prohibited in the classified service. A classified employee who engages in discriminatory harassment may be disciplined by the appointing authority, up to and including dismissal.

(b) Requirement to report. A classified employee who is subjected to discriminatory harassment or who observes discriminatory harassment in the workplace shall report the discriminatory harassment to the appointing authority through reporting procedures established by the appointing authority.

(c) Regulations and action. The state personnel director shall issue regulations governing reporting and investigating discriminatory harassment. The regulations must require each appointing authority to make good faith efforts to eliminate and prevent discriminatory harassment in the workplace. The regulations must require the following minimum actions by each appointing authority:

- (1)** Each appointing authority shall assign one or more investigators to investigate reports of discriminatory harassment by employees.
- (2)** Each appointing authority shall investigate all reports of discriminatory harassment.

- (3)** If a report of discriminatory harassment is substantiated or there is reasonable cause to believe that an allegation of discriminatory harassment is true, the appointing authority shall take appropriate corrective and remedial action.

1-8.4 Bona Fide Occupational Qualification

An appointing authority may establish a bona fide occupational qualification based on religion, national origin, sex, age, marital status, height, or weight, only if it is consistent with applicable law and is approved in advance by the state personnel director.

1-8.5 Elimination of Present Effects of Past Discrimination

An appointing authority may adopt and carry out a plan to eliminate the present effects of past discriminatory practices with respect to religion, race, color, national origin, sex, or disability if the plan is approved in advance by the state personnel director and is otherwise consistent with applicable law.

1-8.6 Seniority and Merit System

Notwithstanding any other provision of these rules, the department of civil service or an appointing authority may apply different standards for compensation or different terms, conditions, or privileges of employment under a bona fide seniority or merit system approved by the civil service commission or the state personnel director.

1-8.7 Departmental Work Rules

This rule 1-8 does not limit the authority of an appointing authority to issue a work rule that regulates verbal or physical conduct or communication that does not rise to the level of prohibited discrimination or discriminatory harassment as defined in these rules.

[Rule 1-8 last amended effective January 1, 2002]

1-9 EXCEPTED AND EXEMPT POSITIONS

1-9.1 Excepted Positions

Positions excepted from the state classified service are those specified in article 11, section 5, of the constitution.

1-9.2 Exempt Positions

- (a) **Limitations.** The head of each principal department may request that the state personnel director exempt up to five positions from the classified service, as provided in article 11, section 5, of the constitution. Four of the five positions must be policy-making positions
- (b) **Method of establishing.** The state personnel director may exempt up to five positions within each principal department upon request. The director shall report to the civil service commission each exemption granted and shall maintain a record of all exempt positions.

1-9.3 Appointment to Excepted or Exempt Positions

- (a) **Leave of absence to accept appointment.** With the prior approval of the appointing authority, a classified employee may receive a leave of absence without pay from the employee's current

classified position to accept an appointment to an excepted or exempt position.

- (b) **Return to the classified service.** At the conclusion of a leave of absence to accept an appointment to an excepted or exempt position, the appointing authority shall return the employee to the classified position formerly occupied or an equivalent position. If the position was abolished during the leave of absence, the appointing authority shall return the employee in accordance with the civil service rules and regulations governing employment preference in effect when the former classified employee seeks to return to the classified service.
- (c) **State service credit.** An employee returning from a leave of absence granted to accept appointment to an excepted or exempt position is allowed state service credit for all purposes for the period of the leave. Credit is allowed as service in the classification from which the employee was granted the leave of absence.

[Rule 1-9 last amended effective March 18, 2001]

1-10 TEMPORARY AGENCIES

1-10.1 Application of Civil Service Rules to Temporary Agencies

All civil service rules and regulations apply to all personnel actions of a temporary agency, except as modified by this rule or regulations issued under this rule.

1-10.2 Limited Right to Return upon Dissolution of Temporary Agency

Each home agency shall grant a limited and defined right to return to the home agency to its employees who become moved employees. A moved employee's right to return to a home agency is effective only upon (1) the dissolution of the temporary agency and (2) the abolition of the classified position occupied by the moved employee. The right to return authorized by this rule does not entitle a moved employee to a classified position within a home agency upon the dissolution of a temporary agency.

1-10.3 Approval of Procedures

Each home agency shall issue procedures to implement the right to return for moved employees, subject to review and final approval by the state personnel director.

[Rule 1-10 last amended effective March 18, 2001]

1-11 CITIZENSHIP AND WORK AUTHORIZATION

An applicant or employee must be a citizen of the United States or an alien authorized to work in the United States. The state personnel director may designate positions for which United States citizenship is required.

[Rule 1-11 last amended effective March 18, 2001]

1-12 POLITICAL ACTIVITIES

1-12.1 Candidates for Public Office

- (a) **Local office.** A classified employee may become a candidate for nomination and election to a local elective office, partisan or nonpartisan, without first obtaining a leave of absence.
- (b) **State office.** A classified employee may become a candidate for nomination and election to state office if the employee requests a leave of absence without pay. The request must be made at the time of compliance with the candidacy filing requirements or 60 calendar days before the election in question, whichever is closer to the election. An appointing authority shall grant a request for a leave of absence to become a candidate for state office.

1-12.2 Leave of Absence for Primary Election

- (a) **Employee not nominated.** An employee on required leave of absence for a primary election who is not nominated in that election shall return from leave of absence immediately after the official canvass of votes.
- (b) **Employee nominated.** An employee nominated in a primary election shall remain on leave of absence until the special or general election.
- (c) **Employee nominated but withdraws.** An employee nominated in a primary election who withdraws from the general or special election in accordance with applicable election law shall return from leave of absence immediately upon such withdrawal.

1-12.3 Leave of Absence for General or Special Election

- (a) **Employee not elected.** An employee on required leave of absence for a general or special election who is not elected in that election shall return from leave of absence immediately after the official canvass of votes.
- (b) **Employee elected.** An employee on required leave who is elected in a general or special election shall leave state classified employment by resignation, retirement, or appropriate separation immediately upon assumption of the office.

1-12.4 Political Party Activities

An employee in the classified service may:

- (a) Become a member or an officer of a political party committee formed or permitted under the election laws of Michigan or the United States.
- (b) Be a delegate to any convention held by a political party.
- (c) Engage in political activities on behalf of a candidate or issue in a partisan or nonpartisan election.

1-12.5 Political Assessments

The levying, solicitation, collection, or payment of any type of political assessment and the authorizing or ordering of such activity in the classified service are prohibited.

1-12.6 Prohibited during Actual-duty Time

A classified employee shall not engage in any activity permitted under rules 1-12.1 or 1-12.4 during actual-duty time.

1-12.7 Conflict of Interest

- (a) **No conflict permitted.** Political activity, including election to or the holding of public office by a state classified employee, must not conflict with the satisfactory and impartial performance of duties required in the employee's classified position.
- (b) **Compensated employee.** An employee compensated for serving in a staff, advisory, or advocacy capacity in any partisan or nonpartisan election is subject to the requirements of these rules regarding outside employment.

1-12.8 Notice

An employee seeking or holding public office that may be in conflict of interest as specified in rule 1-12.7 shall inform the appointing authority when becoming a candidate or, if appointed, when assuming the office. A request for leave of absence required by rule 1-12.1(b) to seek state office constitutes notice to the employer.

1-12.9 Federal Law

Political activities, including candidacy for public office permitted by this rule, may be prohibited by preemptive federal law.

[Rule 1-12 last amended effective March 18, 2001]

1-13 PATENTS AND INVENTIONS

1-13.1 Employee Rights

The property rights in a patent on an invention created by a classified employee are subject to contract entered into by the state administrative board as provided by law. The employee's compensation is 15 percent of the net

royalties that may result from the invention. The compensation provisions of this rule are not negotiable. However, any dispute concerning the employee's property rights relative to the state's property rights in such an invention is grievable.

1-13.2 Grants and Contracts

This rule does not preclude the acceptance of grants or contracts under provisions of applicable federal laws or regulations that require a different disposition of patents or rights to obtain patents.

[Rule 1-13 last amended effective March 18, 2001]

1-14 COPYRIGHTS

1-14.1 Employee Rights

The property rights in a copyright that subsists in a work created by a classified employee as an author-employee belong to the state and are subject to contract entered into by the state administrative board as provided by law. The author-employee's compensation is 15 percent of the net royalties from written licenses or transfers to third parties by the state of Michigan that may result from a work, but only when the state or agency has obtained a certificate of copyright. The compensation provisions of this rule are not negotiable. However, any dispute concerning the author-employee's property rights relative to the state's property rights in such a copyright is grievable.

1-14.2 Grants and Contracts

This rule does not preclude the acceptance of grants or contracts under provisions of applicable federal laws or regulations that require a different disposition of the copyright in works.

[Rule 1-14 last amended effective March 18, 2001]

1-15 EMPLOYMENT RELATIONS BOARD

1-15.1 Employment Relations Board

The civil service commission shall appoint an employment relations board consisting of three unclassified members who are compensated on a *per diem* basis, as determined by the commission. The commission shall designate one of the members as the chair of the board.

1-15.2 Term of Office

The members are appointed to staggered terms of 3 years and serve at the pleasure of the civil service commission. A person appointed to fill a vacancy on the board is appointed only for the unexpired term. All terms of office expire May 1 in the year of expiration. A member may be reappointed.

1-15.3 Quorum and Action

Two members of the board constitute a quorum. The board acts by a vote of a majority of a quorum. If a quorum consists of only two members and they cannot agree, the board shall not act but shall forward the matter to the civil service commission with the separate recommendation of each member.

1-15.4 Duties

The employment relations board has the following duties:

- (a) Review all appeals of right to the civil service commission and recommend final action to the commission.

- (b) Review all applications for leave to appeal to the civil service commission and recommend the grant or denial of leave to appeal. If the board recommends granting the application, the board shall not refer that recommendation to the commission until after the board has considered the appeal on its merits and has issued a final recommendation on the merits of the appeal.
- (c) Serve as the members of any impasse panel or coordinated compensation panel. However, the board instead may appoint one or more of its own members or other persons to serve as the panel.
- (d) Review all other matters referred to it by the civil service commission or the state personnel director.
- (e) Recommend regulations governing board procedures to the state personnel director.

1-15.5 Final Action by the Commission

The employment relations board shall file its final recommendations with the civil service commission. After reviewing the board's recommendations, the commission shall issue a final decision in the matter. The commission may approve, reject, or modify, in whole or in part, the board's recommendations. If the commission rejects, in whole or in part, the board's recommendations, the commission may (1) remand the matter to the board or other officer for further action, (2) issue a final judgment or decision that rejects or modifies the recommendation of the board, or (3) exercise any other power of the board or commission.

[Rule 1-15 last amended effective March 18, 2001]

[End of Chapter 1]